

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

**TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR**

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.17708 of 2004

Between:

Dasari Ranga Rao,

S/o Late Nagabhushanam,
D.No.4-373, Ring Road,

Ramavarappadu, Vijayawada,
Krishna District

..... PETITIONER

AND

1 S.Lakshmi Devi,

W/o S.Vishnu Rao,
Flat No.103, Sarada Apartments,

Bhommangalli, Barkatpura,
Hyderabad

2 K.Saraswathi,

W/o K.Gopala Krishna,
Flat No.103, Sarada Apartments,

Bhommangalli, Barkatpura, Hyderabad

3 The Sub-Collector,

Vijayawada, Krishna District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, or order or direction more particularly in the nature of Writ of Certiorari calling for the records pertaining to

I.A.No.858 of 2004 in L.G.C.No.74 of 2004 and set aside the same.

Counsel for the Petitioner : Sri K.S.MURTHY

Counsel for the Respondents : Govt. Pleader for Assignment for R-3

Sri P.Govind Reddy for RR-1 & 2

The Court made the following :

ORDER: (Per Hon'ble the Chief Justice)

We have heard learned counsel for the petitioner and have been taken through the record.

By the order impugned in the writ petition, I.A.No.858 of 2004 in L.G.C.No.74 of 2004 seeking to set aside the *ex parte* order dated 24th November, 2003 was dismissed by the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad, on 09th September, 2004.

Land Grabbing Case was filed by the respondents

1 and 2 and petitioner herein, who is the fourth respondent in the said case, was duly served with summons and put in appearance through counsel. Time was allowed to file counter by the petitioner and on the date fixed, namely 28th March, 2001, neither the petitioner nor his counsel was present. The Special Court did not pass any privy order, but adjourned the case to

13th June, 2001. Again on that day, there was no representation and as such, petitioner was proceeded against *ex parte*. On

24th July, 2001, an application to set aside the said order was filed, which was allowed and opportunity was given to file counter, which was filed and the case was adjourned for trial. During trial, there was no appearance on behalf of the petitioner on 11th July, 2003 and on 02nd September, 2003, case was adjourned to 19th September, 2003 and on that date also, counsel was not present. Another opportunity was given and the case was adjourned to 21st October, 2003 when no one appeared on behalf of the petitioner and Land Grabbing case was finally disposed of on 24th November, 2003. In order to have the order dated 24-11-2003

set aside, I.A.No.858 of 2004 was filed under

Order IX Rule 13 of Code of Civil Procedure, on 14th June, 2004. The said application filed after lapse of almost 6½ months itself ought to have been thrown out as not maintainable. In any case, it was examined on merits and the Special Court found that there was no sufficient cause made out to set aside the *ex parte* order.

We have heard learned counsel for the petitioner who has projected that petitioner was unable to prosecute the proceedings because of his illness and old age. Such ground only alleged in the petition without any further proof that the petitioner was prevented either to appear himself in the court or through counsel cannot be termed even a sufficient ground to set aside the *ex parte* order. It is not that abruptly the Special Court passed the order. Sufficient latitude was given and twice indulgence was shown by not resorting to taking any punitive action. It was total lack of bona fides on the part of the petitioner, for which the Special Court rightly passed the order, which is not liable to be interfered with in exercise of writ jurisdiction. Moreover, we are informed that only fourth respondent in the Land Grabbing case contested the proceedings, two of the respondents are stated to be vendors of the petitioner. Besides petitioner, there is another land grabber, who is stated to have already left and given up, and his claim having been abided by the order of the Special Court.

Writ Petition is accordingly dismissed.

DEVINDER GUPTA, C.J.

C.V.RAMULU, J

09-11-2004

BSC

To

- 1. The Sub-Collector,
Vijayawada, Krishna District
- 2. 2 CCs to Govt. Pleader for Assignment, High Court buildings,
Hyderabad (OUT)
- 3. 2 C.D. copies